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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,248	03/22/2006	Andrea Zuccheri	J1036.0008/P008	5013
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DICKSTEIN SHAPIRO LLP				
1825 EYE STREET NW				
Washington, DC 20006-5403				
EXAMINER				
ALLEN, JEFFREY R				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
02/18/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/560,248

**Applicant(s)**

ZUCCHERI ET AL.

**Examiner**

JEFFREY ALLEN

**Art Unit**

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 12/12/2005
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.
2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

3. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 102***

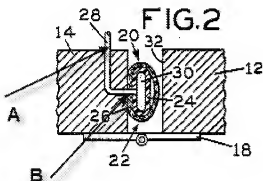
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 8-15 rejected under 35 U.S.C. 102(b) as being anticipated by Van Dyk, Jr. (U.S. Patent No. 4,371,175).

6. Regarding claims 1-6, Van Dyk discloses a protective structure comprising a frame (14), panels (12) fastened to the frame by fastening means (18) which create a gap (22) between the frame and panel and an elliptical shaped, tubular gasket means (24) that is closed at both ends which can be expanded by forcing fluids under pressure to engage with the frame and panel to form a seal whereby in the non-operating condition the gasket is separated from the panel (col. 4, lines 50-54) and opposite ends of the gasket are fastened to top and bottom portions of the frame (A and B in Fig. 2 below labeled by examiner, the features of fig.2 are located at opposite ends of the structure). Van Dyk further discloses the gasket being made of an elastic material (col. 4, lines 33-35) that is resistant to sterilizing products (every material is resistant to some extent).



7.

8. Regarding claims 8-11, Van Dyk discloses the gasket in connection with means of supplying fluid under pressure wherein the means is a compressor (col. 4, lines 38-39). The connection between the compressor and gasket is made through tubes (28) inserted into holes in the gasket wall, the connection between the compressor and gasket also being in a parallel arrangement.

9. Regarding claims 12-15, Van Dyk discloses the panels fasted to the frame by hinges (18), the hinges being fixed in a pivoting manner so that that panels can move to an open and closed position, the panels also being able to be locked by a latch mechanism (col. 4, lines 16-18). The structure of the hinges further comprises a guidance means and a sliding means that engage with each other.

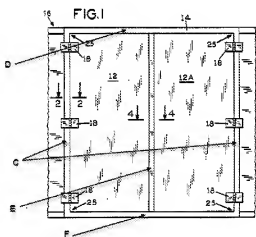
### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyk.

12. Van Dyk discloses all the claimed limitations as shown above and wherein the frame comprises a plurality of uprights (C, Fig. 1 labeled by examiner) connected at the upper end by a perimeter edge (D) and by reinforcing bars (E and F). Van Dyk fails to teach the gasket being fastened to one of the uprights at the top end and to the reinforcing bars the bottom end of the protective structure. It would have been obvious, however, to one of ordinary skill in the art at the time the invention was made to connect the gasket at the locations claimed, since it has been held that rearranging parts of an invention involves only routine skill in the art.



- 13.
14. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyk in view of Zhang (U.S. Patent No. 6,075,205).
15. Van Dyk discloses all the claimed limitations as shown above but fails to teach wherein the gasket wall is formed from polyurethane elastomers compatible with food processing applications.
16. Zhang teaches that it is known in the art to manufacture a gasket out of polyurethane (Col. 7, lines 28-35).

17. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the gasket of Van Dyk out of polyurethane, as taught by Zhang, since it is a resilient material compliant over a wide range of temperatures and it exhibits good compression relaxation characteristics (Zhang, col. 7, lines 27-29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the material compatible with food processing applications since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY ALLEN whose telephone number is (571)270-7426. The examiner can normally be reached on Monday through Friday 8:00 AM TO 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A./  
Examiner, Art Unit 3781

/Anthony D Stashick/  
Anthony D Stashick  
Supervisory Patent Examiner, Art Unit 3781